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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY \_\_\_\_\_ DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSHUA SUPNICK,  
individually and on behalf of  
all others similarly situated,

Plaintiff,

vs

AMAZON COM, INC and  
ALEXA INTERNET,

Defendants.

No. **C00-0221P**

**COMPLAINT - CLASS ACTION**

**JURY DEMAND**



CV 00-221 /1

Plaintiff Joshua Supnick, on personal knowledge as to his own acts and on information and belief based on investigation of counsel as to all other matters, alleges as follows

**NATURE OF THE CASE**

1 Defendant Amazon com, Inc ("Amazon") is one of the leading internet  
2 companies in the country. Through its wholly-owned subsidiary, defendant Alexa Internet  
3 ("Alexa"), Amazon distributes free software known as Alexa that can be downloaded from  
4 the web. The purpose of the Alexa software is to enable more efficient navigation or  
5 "surfing" of the web Defendants advertise, "Alexa travels with you as you surf, giving you

COMPLAINT

ORIGINAL

- 1 -

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1 Related Links and Site Stats for every page you visit.” Thus, the software “provides a  
2 continuous source of relevant recommendations of where to go next on the Web ”

3       2       This software plainly has great capability to invade the privacy of its users, so  
4 defendants go out of their way to allay potential fears. For example, in the Alexa software  
5 advertising, there is a “pledge not to compromise the privacy of our users ” Defendants  
6 further state: “When using the service, we collect information on Web usage which remains  
7 anonymous ” In the Alexa advertising, under FAQs (“frequently asked questions”), the  
8 following information appears

9                   **Question: Is Alexa watching everything I do?**

10                   Alexa does track usage paths. However, this is done  
11                   anonymously and it isn’t associated with anybody’s email  
12                   address. We keep the two separate and have no means for  
                    correlating them. Additionally we do not track any individual  
                    users . . .

13                   We do not sell usage paths at this time. If we choose to enter that  
14                   business in the future, and it is a possibility, we will assuredly not  
15                   have any information about any individual usage paths and all  
                    usage is, as I said before, completely anonymous

16 Defendants thus attempt to assuage privacy concerns, but their statements are vague,  
17 ambiguous, and uninformative about defendants’ actual data collection and information-  
18 handling practices.

19       3       Little do users of Amazon’s Alexa software know that the seemingly attractive  
20 software is actually a trojan horse. The software has features that enable it to gather  
21 considerably more information about the user and the web pages he or she visits than is  
22 disclosed in the vague privacy statement. For example, Alexa’s well-hidden information-  
23 gathering feature permits it to intercept and access users’ personal information, including user  
24 names, passwords, and other private information that is embedded in the URL of secure sites  
25 that are password protected, and transmit that information back to defendants on a frequent  
26 basis through an open internet connection. Thus, defendants were able to and did access

1 users' confidential electronic communications and stored electronic information without or  
2 beyond the users' consent

3 4 By this practice, defendants violated users' electronic privacy rights under  
4 federal statutes – including at least the Electronic Communications Privacy Act, 18 U S C  
5 § 2250 *et seq* and the Stored Wire and Electronic Communications and Transactional  
6 Records Access Act, 18 U.S.C § 2701 *et seq* – and violated users' common-law rights  
7 against trespass to property and invasion of privacy

8 5 Plaintiff Supnick is an Alexa user who was a victim of defendants' practice by  
9 which they obtained access to and intercepted his electronic communications and data without  
10 or beyond his knowledge or consent He brings this case as a national class action, seeking  
11 declaratory, injunctive, and monetary relief, including statutory liquidated and punitive  
12 damages, to redress defendants' violation of his privacy rights

### 13 JURISDICTION AND VENUE

14 6. This Court has subject-matter jurisdiction pursuant to 28 U S C §1331, which  
15 confers upon the Court original jurisdiction over all civil actions arising under the laws of the  
16 United States, and pursuant to 18 U S C §§ 2520 and 2707 This Court has supplemental  
17 jurisdiction over plaintiff's common-law claim under 28 U S C § 1367

18 7 Venue is proper in this district pursuant to 28 U S C § 1391 because  
19 Amazon com, Inc has its principal offices in Seattle and therefore "resides" in this district,  
20 and the events or omissions giving rise to plaintiff's claims occurred in this district where  
21 plaintiff resides and uses computers to access web sites

22 8. This Court has personal jurisdiction over Amazon com, Inc because the  
23 company has its principal offices in this district and resides here The Court has personal  
24 jurisdiction over Amazon com's wholly owned subsidiary, Alexa Internet, because Alexa  
25 advertises its web-browsing software nationwide, including in this district, and intercepts and  
26 accesses users' private electronic information and communications wherever they may be,

1 including in this district

## 2 **PARTIES**

3 9. Plaintiff Joshua Supnick, a Washington resident, is a user of Alexa's web-  
4 browsing software.

5 10 Defendant Amazon com, Inc.'s principal place of business is in Seattle,  
6 Washington Amazon.com is fully aware of the capabilities of the Alexa software, has aided  
7 and abetted Alexa's wrongful conduct, and has done nothing to stop that wrongful conduct

8 11. Defendant Alexa Internet is a California corporation Alexa is a wholly owned  
9 subsidiary of Amazon.com, Inc.

## 10 **GENERAL ALLEGATIONS**

11 12 Amazon's Alexa software is web navigation software that is available for free  
12 downloading at www alexa com. Many thousands if not millions of people have downloaded  
13 this software and use it when accessing the web The purpose of the software, in essence, is  
14 to suggest to web users which site they might like to go to next, based on patterns of usage  
15 To do this, the software keeps records of the history of sites visited It accomplishes this by  
16 transmitting back to defendants the URL ("uniform resource locator"), or address, of each  
17 page visited

18 13 By collecting sequences or histories of URLs, the software can "suggest" that  
19 people who visit one site might often visit another site thereafter For example, people who  
20 visit a site for Ford trucks might then tend to visit sites for Chevy and Dodge trucks

21 14 However, there is no understandable description available to consumers of what  
22 information Alexa actually collects. For example, the URL, especially for secure sites and/or  
23 password-protected sites, often includes query strings containing the user's name, password,  
24 and other confidential information that no rational web user would knowingly give out  
25 without consent Through the Alexa software, however, all this information is transmitted  
26 back to defendants via the internet without the informed consent of users, thereby breaching

1 the federal statutory and common-law rights set forth below

2 15. Both defendants are fully aware of the information that the software collects and  
3 they have done nothing to stop the illegal and wrongful practice

4 16. In stark contrast to what the Alexa software does, another company,  
5 Macromedia, Inc , also collects URLs from web users The Macromedia software "snips off"  
6 the confidential and private portion of a URL and transmits back to Macromedia only the  
7 public portion, thereby avoiding exactly the practice in which defendants here are engaged  
8 This indicates that defendants could have designed web navigation software that does not  
9 interfere with privacy rights or violate federal statutes protecting electronic communications  
10 but defendants chose not to do so

11 **CLASS ACTION ALLEGATIONS**

12 17 Mr. Supnick brings all claims herein individually and on behalf of a class (the  
13 "Class") defined as follows

14 All persons nationwide who used the Alexa web browsing software and  
15 whose personal confidential information and communications were  
intercepted and/or accessed by the software

16 Excluded are defendants' employees, counsel, and their immediate  
17 families

18 18. Joinder of all class members is impracticable because they number at least in  
19 the thousands and are geographically dispersed throughout the country.

20 19 Defendants have acted or refused to act on grounds generally applicable to the  
21 Class, thereby making appropriate final injunctive or corresponding declaratory relief with  
22 respect to the Class

23 20 All members of the Class have been adversely affected by the same wrongful  
24 acts or refusals to act alleged herein, affecting the Class as a whole Consequently, there are  
25 questions of law and/or fact common to the Class that predominate over any questions  
26 affecting individual members. Those common questions include but are not limited to the

1 following

2 (i) Did defendants commit or are they responsible for the acts alleged?

3 (ii) Did Alexa's web browsing software access and/or intercept users'  
4 private electronic communications or stored data without or beyond users' informed  
5 authorization?

6 (iii) Was defendants' conduct wrongful and illegal?

7 (iv) Did defendants' information-handling acts and practices violate the  
8 Electronic Communications Privacy Act?

9 (v) Did defendants' information-handling acts and practices violate the  
10 Stored Wire and Electronic Communications and Transactional Records Access Act?

11 (vi) Did defendants' information-handling acts and practices constitute a  
12 trespass to property?

13 (vii) Did defendants' information-handling acts and practices constitute an  
14 actionable invasion of privacy?

15 (viii) Are the members of the Class entitled to declaratory or injunctive relief  
16 from or related to defendants' information-handling acts and practices?

17 (ix) Was defendants' misconduct willful and/or intentional?

18 (x) Should statutory, liquidated, and/or punitive damages be assessed against  
19 defendants as allowed under federal statute, and if so, what is the appropriate measure?

20 21 Mr Supnick's claims are typical of the claims of the Class and do not conflict  
21 with the interests of any other members in that all have suffered from the company's same  
22 wrongful acts

23 22. Mr Supnick will fairly and adequately protect the interests of the Class. He is  
24 committed to the vigorous prosecution of this action, and has retained counsel with extensive  
25 experience in class actions and consumer protection and who are qualified to pursue this  
26 matter

23 The prosecution of separate actions by individual members of the Class would  
 24 create a risk of inconsistent or varying adjudications, which would establish incompatible  
 25 standards of conduct for defendants.

26 A class action is superior to other available methods for the fair and efficient  
 27 adjudication of this controversy. Certification of this matter as a class action will cause no  
 28 undue problems of manageability

### CLAIMS FOR RELIEF

29 Pursuant to the facts alleged herein and to be established in the course of  
 30 discovery, Mr. Supnick and the Class are entitled to relief under at least the following legal  
 31 theories

#### I.

#### VIOLATION OF ELECTRONIC COMMUNICATIONS PRIVACY ACT

(18 U.S.C. § 2510 *et seq.*)

32 Mr. Supnick realleges and incorporates all of the foregoing as if fully set forth  
 33 herein.

34 Communications by plaintiff and Class members between their computers and  
 35 any other entity, including a web site or internet service provider ("ISP") over the internet, are  
 36 "electronic communications" affecting interstate commerce as defined in 18 U S C § 2510

37 Defendants intentionally intercepted and endeavored to intercept the electronic  
 38 communications of plaintiff and Class members in violation of 18 U.S.C § 2510 *et seq* , by  
 39 utilizing the Alexa web navigation software to capture and transmit complete URLs accessed  
 40 by the users, including sensitive or confidential portions of URLs that often are associated  
 41 with secure or password-protected sites, without the users' knowledge or consent

42 Defendants intentionally intercepted and endeavored to intercept the electronic  
 43 communications of plaintiff and Class members in violation of 18 U S C § 2510 *et seq* by  
 44 utilizing the Alexa web navigation software to intercept and co-opt the users' electronic



1 communication service's internet connections to divert and reroute such communications in  
 2 order to receive complete URLs accessed by the users, including sensitive or confidential  
 3 portions of URLs that often are associated with secure or password-protected sites

4 30 Thus, in violation of 18 U S C §2510 *et seq*, defendants intentionally  
 5 intercepted, used, and/or disclosed plaintiff's and the Class members' electronic  
 6 communications without such persons' full authorization or consent

7 31 Pursuant to 18 U.S C § 2520, plaintiff and each member of the Class is entitled  
 8 to equitable and declaratory relief as may be appropriate, statutory damages of the greater of  
 9 \$10,000 or \$100 a day for each day of violation, actual and punitive damages, reasonable  
 10 attorneys' fees and costs, plus any profits made by the defendants as a result of such  
 11 violations

## 12 II.

### 13 VIOLATION OF THE STORED WIRE AND ELECTRONIC COMMUNICATIONS 14 AND TRANSACTIONAL RECORDS ACCESS ACT

15 (18 U.S.C. § 2701 *et seq.*)

16 32 Mr Supnick realleges and incorporates all of the foregoing as if fully set forth  
 17 herein

18 33 Plaintiff and all members of the Class own or utilize computers and obtain  
 19 access to the internet through internet service providers ("ISPs") or computer servers

20 34 Servers and ISPs provide users the ability to connect to the internet and to send  
 21 or receive electronic communications and thus are "electronic communications services" as  
 22 that term is used in 18 U S C § 2701 *et seq.*

23 35 Because the internet service is provided directly into each user's computer, the  
 24 computers utilized by plaintiff and each Class member are facilities through which an  
 25 electronic communication service is provided

26 36 Electronic communications from web sites visited by plaintiff and Class



1 members are placed in temporary, immediate storage on their computers incidental to the  
2 transmission of such electronic communications. Thus, plaintiff's and the Class members'  
3 computers constitute "electronic storage" as that term is used in 18 U.S.C. § 2701 *et seq*

4 37. Defendants have intentionally accessed without authorization, or exceeded the  
5 authorization permitted, plaintiff's and the Class members' computers in violation of 18  
6 U.S.C. § 2701 *et seq*, by utilizing the Alexa web navigation software to access those  
7 computers while the computers are facilities through which an electronic communication  
8 service is provided, in order to obtain and access complete URLs accessed by users, including  
9 sensitive or confidential portions of URLs that are in computer storage.

10 38. Defendants have intentionally accessed without authorization, or exceeded the  
11 authorization permitted, plaintiff's and the Class members' electronic communication services  
12 in violation of 18 U.S.C. § 2701 *et seq*, by utilizing the Alexa web navigation software to  
13 access and co-opt users' electronic communication service's connections with the internet to  
14 divert and reroute such electronic communication services in order to obtain complete URLs  
15 or addresses of sites visited by users, including the portions of URLs that contain sensitive or  
16 confidential information such as user names and passwords

17 39. Defendants' conduct in accessing plaintiff's and the Class members' computers  
18 without authorization, or in exceeding the authorization given, was willful and intentional

19 40. Thus, in violation of 18 U.S.C. § 2701, *et seq*, defendants, by and through  
20 Alexa's widely disseminated internet navigation software, intentionally accessed without  
21 authorization and/or intentionally exceeded the authorization given to access plaintiff's and  
22 the Class members' computer systems through which electronic communications systems are  
23 provided, and obtained access to their wire and electronic communications while in electronic  
24 storage in such computer systems and/or knowingly divulged or used the contents of such  
25 communications while in electronic storage

26 41. Pursuant to 18 U.S.C. § 2707, plaintiff and the Class members are entitled to

1 such preliminary or other equitable or declaratory relief as may be appropriate, at least \$1,000  
2 per Class member in statutory damages, actual and punitive damages, costs and reasonable  
3 attorney's fees, plus any profits made by the defendants as a result of such violations

4 **III.**

5 **TRESPASS TO PERSONAL PROPERTY**

6 42 Mr Supnick realleges and incorporates all of the foregoing as if fully set forth  
7 herein

8 43. Defendants used, interfered with, and intermeddled with plaintiff's and Class  
9 members' ownership of their personal property, namely, their computers, computer memory,  
10 information therein, and electronic communications, without or exceeding plaintiff's and  
11 Class members' informed authorization

12 44 Plaintiff and the Class members are entitled to all appropriate relief

13 **IV.**

14 **INVASION OF PRIVACY**

15 45 Mr Supnick realleges and incorporates all of the foregoing as if fully set forth  
16 herein

17 46 Defendants, on a widespread commercial basis, have knowingly, recklessly, or  
18 negligently misappropriated, exploited, or disclosed private and sensitive information  
19 concerning the personal affairs of plaintiff and the Class members for defendants' own  
20 benefit, without the knowledge or informed consent of plaintiff and the Class members. Such  
21 conduct constitutes a highly offensive and dangerous invasion of plaintiff's and the Class  
22 members' privacy

23 47. Plaintiff and the Class members are entitled to all appropriate relief

24 **V.**

25 **DECLARATORY JUDGMENT**

26 48 Mr Supnick realleges and incorporates all of the foregoing as if fully set forth

1 herein.

2 49 Plaintiff and the Class members are entitled to a declaratory judgment that, by  
3 the acts alleged herein, defendants violated the Electronic Communications Privacy Act, 18  
4 U.S.C. § 2510 *et seq.*, the Stored Wire and Electronic Communications and Transactional  
5 Records Access Act, 18 U.S.C. § 2701 *et seq.*, and/or plaintiff's and Class members' common  
6 law rights against trespass to property and invasion of privacy

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Mr. Supnick requests that this Court enter judgment in his and the  
9 Class members' favor as follows

10 A. Certifying this case as a class action;

11 B. Declaring the challenged acts and practices to be illegal,

12 C. Enjoining and restraining defendants from any further similar illegal acts or  
13 practices;

14 D. Requiring defendants to take affirmative steps as necessary to ensure that the  
15 effects of its unlawful information-handling practices are eliminated and that defendants  
16 specifically notify all Class members of those practices and defendants' required remediation,

17 E. Awarding plaintiff and the Class members any and all amounts owing to them  
18 under the federal statutes that defendants violated,

19 F. Awarding plaintiff and the Class members actual and/or nominal damages for  
20 violations of their common-law rights to be free from trespass to property,

21 G. Awarding plaintiff and the Class members damages for violations of their  
22 common-law rights to be free from invasion of privacy;

23 H. Awarding punitive damages against defendants, as allowed by federal statute,

24 I. Awarding plaintiff and the Class members the expenses of this litigation,  
25 including the fees and costs of experts and reasonable attorneys' fees,

26 J. Granting other legal and/or equitable relief that the Court deems appropriate

**JURY DEMAND**

Mr Supnick hereby demands a trial by jury of all issues so triable

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of February, 2000.

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